



Lamoine Board of Selectmen

Minutes of September 6, 2007

Chairman Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Chris Tadema-Wielandt, Brett Jones, S. Josephine Cooper, Cynthia Donaldson; Administrative Assistant Stu Marckoon, Budget Committee members Hubene Brodie, Reginald McDevitt, Joseph Young Jr., and Henry Ashmore, Dennis Riley of Lanpher Associates, Conservation Commission Member Carol Korty and Cable TV operator Merle Bragdon. Selectman Richard Fennelly Jr. had phoned earlier in the day to say he was not able to attend.

Minutes of August 23, 2007 – Stu noted Selectman Fennelly had no changes for the minutes, and he had incorporated minor written changes from Selectman Tadema-Wielandt received earlier in the week. Jo had just one minor change and moved to approve the minutes as corrected. Chris 2nd. **Vote in favor was 4-0.**

Agenda Review – Several items were added to the agenda addendum at the request of various Selectmen

Town Hall Reconfiguration – Dennis Riley of Lanpher Associates arrived to meet with the Selectmen regarding his estimated cost to design the renovations to the Town Hall. Jo said Mr. Riley's estimate seemed a little high and she wanted to get an idea of what was included.

Mr. Riley said he looked over the building. He said it is a good, solid building structurally. He said the systems look adequate but could be improved. He said he did some preliminary sketches and it looks like a fairly straight-forward project. He said it would not take much to generate the basic floor plan, and it seems to be well decided what needs to be done. He said the time included meetings to answer questions. He said if the project took him less than a week to do, it would be surprising. He said he could also work on an hourly basis with the understanding that it would not exceed a certain amount

Jo asked if his services would produce a final set of plans for a builder to use. Mr. Riley said that was correct. Jo said the reason for wanting to reconfigure the town hall was safety and efficiency. She said they're also concerned about cost, and Mr. Riley's estimate seemed a bit high. She said she liked the idea of having someone doing this who knows how to do it. Chris asked Mr. Riley how long it took to draft the basic plan. Mr. Riley said he was referring to the scale plan of how the building is presently laid out. He said that would take about two days,

and after that is when the re-design work would begin. Jo asked what Mr. Riley had in mind. A short discussion followed.

Cynthia asked if the reason we needed engineering advice was because of structural soundness. She said the Selectmen had an idea of what the town office ought to look like. Stu said the reason he wanted to contact Mr. Riley was because even though this is a relatively small scale project, it needs to be designed properly by someone who knows what they are doing. Mr. Riley explained what would take two days for the basic plan. Jo said having the basic plan of the town hall as it exists now would be helpful going forward in the future. A short discussion followed on the history of the town hall renovation process.

Brett said an advantage to using Mr. Riley's services would be to have plans for bidders so they all have the same plans. Chris said the cost for the work would not be going down in the future. Mr. Riley said he didn't see much less time involved in doing the work than what was proposed. Cynthia asked if an engineering study of the building is something that could be referred to in the future. Brett said the project does not require an engineer. Cynthia asked again if this would be worthwhile going forward. Mr. Riley said it would. Chris asked Brett if he thought the existing interior walls would be brought down and replaced. Brett said he would suspect that would be much of the project. Mr. Riley said it's not a complex thing. He said his job would be to assist with the design of that, help with the bidding process, and add an engineer's competence to the project. Cynthia asked if the bidding assistance required more time. Mr. Riley said it would require a few more billable hours. A short discussion followed on the building project itself.

Petition Requesting Special Town Meeting Referendum Vote

Jo asked Stu when he produced the packet of information for the Selectmen's packet in relation to when an opinion from Maine Municipal Association (MMA) came in. Stu said the MMA opinion arrived well after the packet was distributed – arriving only two days ago. Jo read the following from the MMA memorandum written by attorney Rebecca Seel:

It is the view of the attorneys in MMA's Legal Services Department that towns probably do not have the authority to adopt a home rule ordinance that attempts to dictate the method of voting used by the legislative body. I say "probably" because there are no Maine court decisions directly addressing this issue to my knowledge. We think that a court would find that a limitation on the method of voting by the town's legislative body (and consequently a limitation on related voter petition rights under 30-A MRSA sections 2522 and 2528) may only be imposed by municipal charter or State statute. Our opinion is based on our interpretation of 30A MRSA section 2501. Because we believe that a charter provision must be adopted in order to require all voting to be done by secret ballot referendum under 30-A MRSA section 2528, it is our view that a local ordinance attempting to impose such a requirement would only be advisory to the board of selectpersons; it would not legally control the board in deciding whether to put a question to the voters by secret ballot or at open town meeting. If such an ordinance were adopted by the voters, we believe that the board may choose

to ignore the ordinance or may choose to comply with it voluntarily for political reasons; it is their decision, not one legally dictated by the ordinance.

Chris asked Stu to clarify what he believed the petition asked to do. Stu said he believes the petition asks the Selectmen to schedule a special town meeting referendum for an up or down vote on the ordinance that was attached to the signature pages. Jo said she understands the motivation of the petition is to eliminate the open town meeting. She said the title on the petition was misleading by reading "Protect Your Right to Vote".

Jo said the MMA opinion appears to say that the petitioners are attempting to do away with the open town meeting by dictating the manner of voting. Brett said he thinks MMA is saying that the way to go about this is to set up a town charter; otherwise the method of voting is covered by state statute. He said it's a bad position to be in. Jo said she suspects many people signed the petition without understanding what exactly they were asking for. Chris said even if every signer knew what it was, the expression in the ordinance that it was to be effective for the 2007-08 fiscal year meeting, should the proposed ordinance pass, the entire town meeting last March would be subject to challenge, and one never knows what a judge will do. Brett asked what exactly would be voted on. Stu said it would be a question to pass the ordinance. Jo said she just wanted to make sure the Selectmen are doing the right thing.

Stu explained there are many possible choices the Selectmen could make in regard to the petition, including scheduling a public hearing and vote or not scheduling a vote for a reasonable reason as outlined by MMA's attorney.

Chris said the town does not need to get to the point of voting on the proposed ordinance because of the issue of the fiscal year identification. **Chris moved to reject the petitions and NOT call for a special town meeting.** Cynthia said that makes sense, though it delays deliberation on the question and a new petition could come in. Chris said the petitioners could always circulate another petition and he has no problem with them doing that. Jo said it appears the petitioners don't want to talk this out, instead they wish to do it by secret ballot. Stu said there would have to be a public hearing prior to the secret ballot. Brett said the history of public hearings is that very limited debate is heard. Jo said the ordinance presented was confusing if one doesn't have much knowledge of the process. She said she thought it was baloney, and she wanted to preserve the open town meeting.

Brett 2nd the motion. He said his reasoning was the opinion from MMA. He said MMA said their opinion was untested, but it laid out the process for this to happen by a municipal charter. Chris asked if we wanted to be the test case. Jo said she would like to invite the people who put together the petition to discuss the ideas with the Board. She said if people feel strongly that the process is not working, it is important to talk about it. Jo said the proposed ordinance would be taking away the rights of people to be informed before voting. She said she was

open to a different structure of town meeting, and she asked why, if someone feels there is a problem, they won't talk about it. She said the Selectmen do not have to give into the unfortunate reality that people choose not to attend the town meeting.

Brett noted that he grew up in a community that did not have the town meeting, and said he likes the town meeting process. He said the advantages outweigh the disadvantages.

Vote in favor of the motion was 4-0.

Stu asked how the notification should be delivered. Jo said a letter should go to Mrs. Sharkey who delivered the petitions with a copy of the minutes and the MMA opinion. Cynthia said the letter should say that the Selectmen are open to pursuing the discussion.

Brett said maybe there are some ways to address the non-attendance issues. Cynthia said she was struck by the number of people who signed the petition. Hubene Brodie said she missed the last regular town meeting because she had to travel out of state. There was a discussion about proxy voting and whether a referendum could be available for the open town meeting. Carol Korty suggested setting the date for the annual town meeting further in advance so people would know. Stu said the date is usually set before October 1st so the nomination petition deadlines can be published in the *Lamoine Quarterly*. A short discussion followed.

Henry Ashmore said that next year's school budget will have to be validated by a special referendum. Jo said the Selectmen were aware of that because of the consolidation process. Henry suggested the same validation process could be done for the entire town meeting.

Budget Committee Workshop

Jo said she thought it was a good idea to take a look at how things are done. She said she tried to look at the present process and put some ideas on the table. She said her thinking was to prompt a discussion, and sometimes that can lead to better ideas. She said she hoped that her memo was not taken as critical or that the budget committee members were not doing the work to the best of their ability. She said she's trying to keep things above board. She said she missed the fact that the Budget Committee was going to have a meeting. She said she would like to have been there to discuss her ideas. She said the Selectmen invited the Budget Committee to meet with them in September, and she sees from the minutes of the Budget Committee that they've already voted against the idea. She said she was surprised by that because her memo was ideas only, and not meant to be a firm proposal. She said she got the ideas from

how other towns work the budget process and really wanted to talk with the Budget Committee about them.

Budget Committee member Reggie McDevitt said the memo mentioned a desire to streamline the process, yet it was proposed to bring in five extra members. He said if department heads or board chairs, were to serve, they would be serving only for their own purpose and not the overall budget. He said it would be ridiculous to have that situation. Budget Committee chair Henry Ashmore said the purpose of the Budget Committee is to review the proposed budgets, including those submitted by the Selectmen. He said they decide whether the request is valid and if the town can afford it, and then the committee takes a position. He said the committee usually meets about six times and that's not a strenuous schedule. He noted the five committee members are appointed by the Selectmen.

Dr. Ashmore said to expand the budget committee to include department heads would take the budget process back 15-to-25 years ago when the committee was made up of five community members and the department heads who advocated for their budgets. He said he didn't see the need for more than five members. He said it might be a good idea to move the school budget process to later in the spring. He said he would like to know the state funding amount before town meeting.

Budget Committee member Hubene Brodie said she took offense to a reference in the memo about information being forgotten and the need for financial expertise. She said there is a lot of expertise on the committee, and if the committee can't do the job with what it has, maybe more members are needed, but she didn't see the need for it. She said the committee cannot review a budget and immediately approve it because they have to see the entire budget picture. She said putting department heads on the budget committee would be wrong because it would create a conflict of interest.

Dr. Ashmore said in the past few years the process has been streamlined. He said some Selectmen have been attending the budget meetings in the past few years and they've asked questions. He said with adjustments and discussion with the Selectmen attending the meetings, the Budget Committee and Selectmen usually have the same recommendation for town meeting. He said the process is working pretty well.

Budget Committee member Joseph Young said he sees the mission of the Budget Committee is to provide a fair balance, and sometimes they have to ask folks to reconsider their requests. He said the voters have the last word. He said he thinks the committee is working very well and the town should be proud that its tax rate is in line. Mr. McDevitt said the Budget Committee has put everything into its duties to present a fair budget. He said the communication from the Selectmen mentioned that few from the committee actually attend town meeting.

He said the job of speaking for the committee is usually delegated to one person. He said he thought that was quite efficient.

Jo said she agreed with most of what was said. She said she took offense that the Budget Committee didn't want to sit down and discuss things. She said she wrote her memo for the Selectmen and all it was designed to do was to float out some ideas. She said before she was elected, the Committee did not have any Selectmen at the budget meetings. She said she felt the Selectmen needed to be there. She said that's been an important part of the process and more often than not there is agreement. She said that was not always so. She said she remembers Budget Committee members quitting because the town meeting did not agree with their recommendations. She said all her communication was about was an attempt to work together with the Budget Committee.

Jo said a few things could be improved. She said there were issues last year that prompted her proposal. She said the biggest issue was meeting with the school committee in great detail about their budget and at a subsequent meeting members said they had questions that were not answered by the School Committee. She said the other issue was the committee not remembering what was said. She said that was about pretty basic information presented to the Budget Committee, and that was frustrating.

Jo said she agreed a large membership would be cumbersome, and that department head presence on the board is problematic. She said she still holds to her thinking that more of the Budget Committee should be present at town meeting. She said it's difficult for one person to remember all the reasoning for recommendations and used social service requests as an example.

Jo said the budget process puts an awful lot on 5-people. She said all she was suggesting was that if more people were involved the process might work better. She said she was not sold on all the arguments from the Budget Committee. She said she wanted a discussion and was not trying to threaten anyone. She said there was pretty widespread frustration from last year's budget process.

Dr. Ashmore said it might have been better to just express concerns instead of offering solutions. Jo said she was not one to complain without offering solutions. Cynthia said as a newcomer to the Board of Selectmen she was trying to understand how the process works. She said she wanted a discussion about that. She said the Selectmen don't make recommendations on every budget item. She said she wanted to know how other things work. She said there is no place in the process where the Selectmen make a recommendation. Mrs. Brodie said the Selectmen have the final say on how the budget appears in the town meeting warrant.

Cynthia asked if the Budget Committee meets with the Selectmen to tell them why they make the recommendations they do. Dr. Ashmore said in recent years

the Budget Committee and Selectmen have been in agreement. He said the Budget Committee could meet with the Selectmen. Jo suggested maybe the final meeting before the warrant is signed could be a discussion. She said the hidden elephant in the process is power and authority. She said her thoughts had nothing to do with the personnel on the committee now, but were to try to provide better communication for town meeting.

Brett said the only power the Budget Committee wields is that of recommendation. Jo said some people presume the Budget Committee has a lot of authority. She said she would like to get away from the "them and us" attitude. She said maybe the end result will be that all is OK. She said she had concerns the last couple of years about the way the budget was done.

Mr. McDevitt said the Selectmen have full authority, and they appoint the Budget Committee members to do the job. He said at every meeting last year there was a Selectman present, and that hadn't happened before. He said they were not used to having someone look over their shoulder. Brett said he was present because he wanted to learn how the process works. He said he was not trying to influence decisions of the Budget Committee. Cynthia said she was still trying to sort out the rules of the game and thought she was supposed to attend the Budget Committee meetings. Jo said they are public meetings. A short discussion followed. Jo said the August 28th meeting should have been on TV.

Dr. Ashmore said previous boards of Selectmen usually had at least one member attend their meetings. Mrs. Brodie said the purpose of the August 28th meeting was to discuss the proposal from the Selectmen without the Selectmen to tell them their thoughts. She said the purpose was for the Budget Committee to get its thoughts together. A short discussion followed about the meeting process.

Brett asked if the Budget Committee planned to give thought to the capital improvement schedule and expand on the ideas. Jo said a discussion at the beginning of the budget process and at the end might be useful. Brett asked if a formal report from the Budget Committee appears in the Town Report that could explain the Budget Committee's thinking. Dr. Ashmore said they did that one year. A short discussion followed.

Chris thanked the Budget Committee for attending. He said he would like to see the Selectmen and Budget Committee work closely together.

Stu asked if the Budget Committee intended to set up a schedule. Jo suggested meeting again on the 20th of September to talk about budget goals. Dr. Ashmore said the Department Heads could be invited to that meeting. Stu suggested the town meeting date could be set that night as well. After further discussion, it was agreed the Selectmen, Budget Committee and Department heads should meet on Thursday, October 4th.

Budget Committee meetings would occur during the following weeks at a date to be determined:

- October 15
- October 29
- November 12
- November 26
- December 10
- January 7
- January 14 or 21

A final meeting to make recommendations and discuss those with the Selectmen would be determined.

Dr. Ashmore said the Budget Committee needs to know how to handle the school budget – whether at the regular town meeting or at a special town meeting.

Special Town Meeting – September 19, 2007 – Stu said he would appreciate if one of the Selectmen could be moderator, then he could better explain the cell tower question and answer questions. Chris offered to serve if elected.

The meeting will require a short power-point presentation showing a map of the area of the cell tower. Carol Korty noted that the Conservation Commission hopes that a park might be located in that area some day. Included in the power point presentation would be the lease figures and possibly an aerial shot of the area. Jo said she would provide information for the Veterans' Memorial Question if needed.

Salt/Sand Shed Update – Stu noted the footings have been poured and builders' risk insurance obtained. He said Jim Kiser developed a simple contract with Jay Fowler and that Chris had refined it. Brett asked about the gravel bank slope behind the transfer station and a short discussion followed.

Jo said the contract looked fine to her. Cynthia moved to approve the contract with Jay Fowler. Jo 2nd. **Vote in favor was 4-0.**

Cell Phones – Stu said the agreement with Cingular/AT&T was expiring and he had shopped around and found Verizon probably had a better deal. A short discussion followed on the needs for the town and what the plan consisted of. Jo moved to go with Verizon. Chris 2nd. It was noted that reception would likely improve with a new tower. **Vote in favor was 4-0.**

Road Work – Stu referred the Selectmen to the memo in their materials handed out this evening. He said the Road Commissioner is recommending that the work be awarded to Jay Fowler & Son. Chris moved to accept the road commissioner's recommendation. Jo 2nd. **Vote in favor was 4-0.**

Road Names – Jo moved to approve the following names:

Coley Cove Road
Sunset Drive
Madison Avenue

Chris 2nd. **Vote in favor was 4-0, the Naming Orders were signed.**

School Consolidation – Cynthia handed out a written update about the Regional Planning Committee. She said everyone met August 23rd and got a notebook. She said the finances were interesting. She said she was speechless after looking at the figures showing Lamoine would be the hardest hit community in the Regional School Unit. She said she was surprised because the local cost increase seemed so out of line. She said a combination of per pupil cost being low and the valuation being high put Lamoine at a disadvantage. Brett said it sounds like the town is being punished for doing a good job in the past. Cynthia said there are two groups the town is talking with and discussed some of the figures with both the Ellsworth area and the MDI area. A short discussion followed about the cost of going it alone.

Cynthia said the committee is working well together. Brett asked about the voting status of the committee members. Cynthia said she pushed that among the committee members and it was decided that Kathleen Rybarz will be the alternate member when it comes to a vote. A short discussion followed. Cynthia said the notebook she has is available for anyone who wishes to study it. She said the next meeting is set for September 12th at Mountain View School in Sullivan.

Warrant 5 – Selectmen signed expenditure warrant 5 for \$37,102.32.

Tax Commitment – Stu reported the tax rate set by the assessors was the same as the previous year, 7.0 mills.

Credit Cards – Stu explained how on-line Payments Corporation would work. He said the town would be charged for the Credit Card machine, and they could only collect property and excise taxes on it at no charge. He said customers would be charged 3% extra for the payments. Cynthia said she was not in favor of offering this. Stu said he would check with the town's bank to see if there might be some other program available.

Vexation Order – Stu reported that the subject of the vexation order imposed by the town's attorney had violated that order. Chris moved to instruct the town attorney to pursue a criminal trespass complaint. Brett said that ignoring enforcement of the order only emboldens the subject. He 2nd the motion. **Vote in favor was 4-0.**

Bloomfield Park – Stu reported the surveyor had visited the park after the initial description and map were written up and gone over the description with both landowner Stuart Branch and Parks Commission chair Kerry Galeaz. Stu said the question is whether the town knows where the described way is on the face of the earth and he's waiting to get confirmation of that.

DEP Notice of Violation- Stu reported a septic business on Buttermilk Road received a notice of violation from the Department of Environmental Protection. Selectmen asked if it was FYI only. Stu said that was the case. He said the owner had called him ahead of time to alert him it was coming. A short discussion followed.

Conservation Commission Vacancy – Chris moved to declare Tom Spruce's seat a vacancy, with regret. Jo 2nd. She said we should advertise the opening. **Vote in favor was 4-0.**

MMA Convention Delegate – Jo moved to appoint Stu as the delegate from Lamoine to the Maine Municipal Association convention. Chris 2nd. **Vote in favor was 4-0.**

Portable classroom lease termination – Jo moved to approve the modified lease termination with the school department. Cynthia 2nd. **Vote in favor was 4-0, Jo signed the agreement.**

Gott Right Of Way – Chris suggested sending a draft to Tim Gott or Steve Salsbury for review to see if they do what they think it should do. There was no objection from the Board.

CEO Violations – Stu reported a notice of violation was sent to property owner Neila McIntyre for several trailers and RV's placed on her property off Seal Point Road. Stu said the Code Enforcement Officer reported to him that most of the offending vehicles have been removed.

Selectmen asked about a building put up without a permit on Mud Creek Road. Stu reported the CEO is working with the landowner who has a septic design and is making adequate progress toward obtaining the proper permitting.

Flags – Jo asked when the utility pole flags will come down. Stu said he would check with Dick Fennelly, but it should be soon to preserve them. He said the agreement with the Cole Foundation was that they have to stay until Labor Day.

Census – Stu said the Census Bureau has written to ask for help with the Addressing, estimating it would take 115-to-1500 hours to complete. He said we don't have that kind of manpower available. Selectmen agreed to reject the request.

DOT Grants – Selectmen asked that grant info for the Small Harbor Improvement Program be forwarded to the Parks Commission.

Executive Session – Chris moved to go into executive session pursuant to 1MRSA §405 (6)(a) to discuss a personnel matter. Jo 2nd. In at 9:42 PM. Out at 9:58 PM.

There being no further business to discuss, the meeting adjourned at 9:58 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.